

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of JASMINE ANKENY, MISTY  
ANKENY, and ALEXANDER ANKENY,  
Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ANTHONY FOOTE,

Respondent-Appellant,

and

ELISABETH FOOTE,

Respondent.

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In the Matter of JASMINE ANKENY, MISTY  
ANKENY, and ALEXANDER ANKENY, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ELISABETH FOOTE,

Respondent-Appellant,

and

ANTHONY FOOTE,

Respondent.

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UNPUBLISHED

June 2, 2005

No. 258947

St Clair Circuit Court

Family Division

LC No. 03-000329-NA

No. 259163

St Clair Circuit Court

Family Division

LC No. 03-000329-NA

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Before: Neff, P.J., and Owens and Fort Hood, JJ.

FORT HOOD, J. (concurring in part dissenting in part).

I concur in the disposition in docket no. 258947 with regard to the termination of the parental rights of respondent father. Although respondent father successfully completed anger management counseling and commenced employment as a trucker, he engaged in behaviors that could harm the minor children. He was arrested for soliciting in another state during his employment and was terminated as a result. Additionally, he told case workers that if his parental rights were terminated the “Gates of Hell” would open, and there would be two bodies floating in the river. Consequently, the trial court did not clearly err in finding clear and convincing evidence to terminate his parental rights. *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). Moreover, the evidence failed to show that termination was clearly not in the children’s best interests with regard to respondent father. *Trejo, supra* at 356-357.

However, in docket no. 259163, I respectfully dissent with regard to the termination of the parental rights of respondent mother. While this action was pending, multiple case workers were assigned and replaced. All workers cited the filthy environmental conditions of the home as the basis for the removal of the children.<sup>1</sup> The children initially came to the attention of petitioner when a minor child was found wandering outside naked. Respondent mother was at church, and respondent father was reportedly in charge of supervision, but had fallen asleep. The home environment appeared to be the most important issue. The home was cleaned with the assistance of case workers, the children were returned, and the case was closed. However, when a minor child suffered a playground injury that required an extensive cast and clean environment, another petition was initiated. Services were provided, and respondent mother was able to complete parenting classes and attend counseling.

Review of the record addressing termination of parental rights reveals that the testimony consisted of case workers who reported extensively regarding the environmental conditions of the home.<sup>2</sup> It should be noted that there was no psychological testimony to establish why

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<sup>1</sup> It should also be noted that the removal of the children was intermittent and inconsistent. For example, while one child was removed because of a medical reason, the other children remained in the home. When the injured child was returned to the home, the home was deemed unsuitable and only then were all three children removed from the home. Therefore, either the question of harm to the children was not at issue or the decision to remove was based on the individual in charge of the case at that time.

<sup>2</sup> This case did not present the typical basis for termination of parental rights. There were no allegations of sexual or physical abuse. The father of respondent mother reported that visits with the children in his home were proper. He testified that the children had a loving relationship with their mother and wanted to return to her. He further testified that respondent mother helped the children with their homework and bathed them. Nonetheless, respondent mother was sent to the typical parenting classes and counseling, and it is unknown whether her particular psychological problem was addressed in counseling.

respondent mother was unable to maintain a clean home, whether there was a psychological basis for this inability, and whether she was treated for this inability. Inadequacies properly attributable to the agency cannot form the basis for the termination of parental rights. *In re JK*, 468 Mich 202, 214 n 20; 661 NW2d 216 (2003). Because the environmental conditions of the home was the predominant factor for termination and the children were inconsistently left in these conditions, I would remand to determine whether the psychological basis for the condition of the home had been addressed by respondent mother and whether the root of the problem could be addressed within a reasonable period of time in light of the age of the children.

/s/ Karen M. Fort Hood